

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jefferey McIntyre on 12/5/08.

The application has been amended as follows:

Claims 45-50 and 52-75, line 1, **before** " composition", **insert----** mascara-----.

The following is an examiner's statement of reasons for allowance: in view of the two declarations, the rejection of claims 43, 45-50, 57-60, 62-63 and 65-81 under 35 U.S.C. 102(e) as being anticipated by 6,491,931 ('931) and the rejection of claims 43, 59-63, 65, 69-81 under 35 U.S.C. 102(e) as being anticipated by 6,726,917 ('917) is hereby withdrawn since the fibers are not drawn to claimed rigid substantially rectilinear fibers. The rejection of claims 43, 45-50, and 57-81 under 35 U.S.C. 103(a) as being unpatentable over the combination of U. S. Patents '931 and 5,911,974 ('974) is also withdrawn since patents do not teach or suggest claimed rigid substantially rectilinear fibers. The claims are unobvious therefore the rejection of claims 43, 45-50, 59-63, 65, 69-80 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 7-21, 26-37, 41-56, 61- 67, 70 and 72 of U.S. Patent No. 6,491,931 is also withdrawn.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JYOTHSNA A. VENKAT whose telephone number is 571-272-0607. The examiner can normally be reached on Monday-Friday, 10:30-7:30:1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL WOODWARD can be reached on 571-272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JYOTHSNA A VENKAT /
Primary Examiner, Art Unit 1619